

Paul C. Bauducco, SBN 119512  
Email: [pbauducco@lewithackman.com](mailto:pbauducco@lewithackman.com)  
Matthew J. Soroky, SBN 258230  
Email: [msoroky@lewithackman.com](mailto:msoroky@lewithackman.com)  
LEWITT, HACKMAN, SHAPIRO, MARSHALL & HARLAN  
16633 Ventura Boulevard, Eleventh Floor  
Encino, California 91436  
Tel: (818) 990-2120; Fax: (818) 981-4764

Attorneys for Defendants LemonShark Franchising LLC, Demand Brands Group LLC, Tobi Miller, Richard J. Gottlieb (erroneously named as Richard S. Gottlieb), Alton Klein, James Krieger and Maria L. Winn

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA (WESTERN DIVISION)**

RANGE 2 POKE LLC; R2P ONE LLC; and R2P TWO LLC,

**Plaintiffs,**

vs.

LEMONSHARK FRANCHISING, LLC, a California Limited Liability Company; DEMAND BRANDS GROUP LLC, a California Limited Liability Company; TOBI MILLER, an individual; RICHARD S. GOTTLIEB, an individual; ALTON KLEIN, an individual; JAMES KRIEGER, an individual; MARIA L. WINN, an individual; and Does 1-5.

### Defendants.

Case No: 8:22-CV-00949-SPG-ADSx

**DEFENDANTS' NOTICE OF  
MOTION AND MOTION TO  
DISMISS PLAINTIFFS'  
COMPLAINT PURSUANT TO  
FED. R. CIV. PRO. 12(b)(6)**

[Filed Concurrently with  
Memorandum of Points and  
Authorities, Declaration of Matthew J.  
Soroky, [Proposed] Order]

## Hearing

Date: October 19, 2022  
Time: 1:30

Time: 1:30 p.m.  
C1 5G

Ctrm:  
Judge:

Judge: Sherilyn Peace Garnett

1 TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that on October 19, 2022, at 1:30 p.m. or as soon  
3 thereafter as this matter may be heard in Courtroom 5C of the above-referenced  
4 court, located at 350 West 1st Street, Los Angeles, California 90012, Defendants  
5 LemonShark Franchising LLC, Demand Brands Group LLC, Tobi Miller, Richard  
6 J. Gottlieb, Alton Klein, James Krieger and Maria L. Winn (“Defendants”) will  
7 and do hereby move for an order dismissing the First Amended Complaint  
8 (“FAC”) pursuant to Federal Rule of Civil Procedure 12(b)(6).<sup>1</sup>

9 This motion is made on the following grounds: (1) the FAC fails to satisfy  
10 Rule 9(b) pleading standards; (2) the FAC fails to allege facts to state facially  
11 plausible claims for relief; and (3) the FAC alleges facts showing Plaintiffs are not  
12 entitled to relief on any claim based on the offer and sale of franchises.

13 This motion is made following the conference of counsel pursuant to Local  
14 Rule 7-3 which took place on June 16, 2022. On June 20, 2022, Defendants  
15 requested, several times, a second conference of counsel to discuss additional  
16 grounds supporting this motion. Plaintiffs refused to participate in another  
17 conference. *See Declaration of Matthew J. Soroky, Ex. C.*

18 This motion is based on this notice of motion and motion, the concurrently  
19 filed memorandum of points and authorities and supporting declaration of Matthew  
20 J. Soroky, the records and files of the Court in this action of which this Court may  
21 properly take judicial notice, and such other further evidence and argument as may  
22 be presented at or before the hearing of this motion.

23 Dated: July 7, 2022

LEWITT, HACKMAN, SHAPIRO,  
MARSHALL, & HARLAN

25 By: /s/ Matthew J. Soroky  
26 Matthew J. Soroky  
Attorneys for Defendants

27 <sup>1</sup> Defendants previously filed this motion on June 30, 2022 [Dkt. 19] and noticed the  
28 hearing for this motion on August 3, 2022. At the Court’s request, this motion is being re-  
filed and noticed for hearing on an available date on the Court’s motion calendar.